

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 09, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KENNETH B.,¹

Plaintiff,

v.

FRANK BISIGNANO,
Commissioner of Social Security,

Defendant.

No. 4:24-cv-5163-EFS

**ORDER REMANDING FOR
AN AWARD OF BENEFITS**

Plaintiff Kenneth B. asks the Court to reverse the Administrative Law Judge's (ALJ) denial of Title 2 and Title 16 benefits from

¹ For privacy reasons, Plaintiff is referred to by first name and last initial or as "Plaintiff." See LCivR 5.2(c).

September 30, 2016² to March 20, 2023, and to remand for payment of benefits. The Commissioner asks the Court to affirm the ALJ's denial of benefits for this period, arguing that the ALJ's denial is supported by substantial evidence. As is explained below, for the same reasons the ALJ found Plaintiff was markedly limited in two Paragraph B functioning areas after March 21, 2023, Plaintiff was so markedly limited during the relevant period. The ALJ's finding otherwise is not supported by substantial evidence. This matter is remanded for an award of benefits from September 30, 2016, to March 20, 2023.

I. Background

Since childhood, Plaintiff has suffered from epileptic seizures.³ He received two associate's degrees and worked for several years until stopping work in 2015 after suffering a seizure at work.⁴

² In his Reply, Plaintiff states he will "accept an established onset date of September 30, 2016," rather than the initially alleged January 1, 2016 alleged onset date. ECF No. 10 at 11.

³ AR 466, 532.

⁴ AR 205, 524, 752, 795.

1 1. Treatment history

2 A September 30, 2016 treatment note reflects that Plaintiff was
3 being followed for epilepsy, he reported that he had no seizures for a
4 year, that he was taking 26 different supplements, and that he
5 “believes God will heal him and his health issues.”⁵

6 Several months later, in April 2017, a telephone encounter note
7 states:

8 Kenneth called stating he had a couple of seizures. The
9 woman he is staying with called an ambulance. Apparently,
10 she was scared afterwards and won’t allow him back in the
11 house. It sounds like he may have been postictal. He said
12 that he had told her before just to talk to him about the
work of god until he calms down. If I understood him
correctly, he is in Florida. He said that someone contacted
Dr. Powell last night. He would like to know what was said.
There is no documentation of a phone call.⁶

13 In September 2017, Plaintiff had a follow-up evaluation for epilepsy
14 with Dr. Powell, wherein:

15 He denies any seizures. He stated that he had one episode
16 where he was possessed by a demon. However, it was not an
17 epileptic seizure. He says that he’s been cured by the Lord
of his epilepsy. He wants us to give him “Jesus oil” anyway.

18 ⁵ AR 848.

19 ⁶ AR 872.

1 (Essentially, this is CBD oil.) I assured him that that would
2 not be happening. In fact, I suggested to him that if he truly
3 has been cured, why was he still taking the medication.
4 This called his card. He backtracked and said that he is not
5 supposed to come off the medicine yet because the Lord had
6 not told him to do so. I told him that was good. He is
7 planning on going around and healing all epilepsy patients
8 by the laying on the hands. I spent most the appointment
9 listening to him pontificate on this and other religious
10 delusions.⁷

11 The following June 2018 Plaintiff called the epilepsy center:

12 . . . stating that “the Lord has healed his seizures.” He
13 asked for a test to prove to us that this is the case. I let him
14 know that the only way to prove this is by taking him off
15 meds while having him hooked up to an EEG in the hospital
16 for a week. He isn’t going to do that. He is sure that he can
17 just stop his meds this summer when his friend is here
18 visiting for a week and that will be proof enough. I let him
19 know that that is a very dangerous idea for a number of
20 reasons. The first is that unless he is in the hospital we
21 always taper people off of meds and not stop them cold
22 turkey, I let him know of sub clinical statues and SUDEP.
23 He is undeterred because he is healed. I let him know that I
24 would speak with you and get more advise, it sounds like he
25 is going to do this one way or the other.⁸

26 During telephone encounters with the epilepsy center in August
27 2018, Plaintiff reported having seizures, restarting Keppra medication

28 ⁷ AR 870.

29 ⁸ AR 868.

1 but then later also stating that he never stopped taking the zonisamide
2 at night while only taking 1 pill of Keppra twice daily, and that “[t]he
3 Lord wants him back on his medication.”⁹ One nurse wrote, “It took
4 about 20 minutes to get a straight answer from Kenneth as far as what
5 he is taking and even yet, I’m not entirely sure.”¹⁰ A treatment visit
6 later that month states, “This was a convoluted visit as normal. We
7 tried to review the history but he kept contradicting himself.”¹¹

8 During the follow-up treatment visit in August 2019, Dr. Powell
9 wrote, “All of our 20-minute visit was spent in listening to his
10 pontificating diatribe and his ultra-religiosity.”¹² Plaintiff again
11 reported that the “Lord has healed my brain,” and he said that he
12 stopped taking his seizure medicine 3 days prior.¹³

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15 ⁹ AR 866.

16 ¹⁰ AR 866.

17 ¹¹ AR 864.

18 ¹² AR 843.

19 ¹³ AR 843.

1 During the next year's follow-up visit with Dr. Powell in August
2 2020, Plaintiff presented as alert, with intact attention span and
3 concentration, and an ability to follow commands.¹⁴ However, he
4 refused to go back on zonisamide but was willing to take
5 levetiracetam.¹⁵ Dr. Powell wrote:

6 I reviewed past history with him. His previous medications
7 have included Lamictal, Zarontin, Depakote, Dilantin,
8 Keppra, gabapentin, Topamax and Zonegran. The only
9 medications that he has available for his seizure type are
10 Felbamate, Phenobarbital, Fycompa. None of these are ideal
11 in this individual. I would strongly prefer not to use them.
12 Felbatol and phenobarbital are too complicated for him to
use, and have intolerable side effects. Laboratory
monitoring also needs to be performed. I'm pretty sure that
he would not be compliant with that. Fycompa can cause
significant behavioral abnormalities. That is one thing that
he does not need. He already has an edge to him, and is
somewhat difficult to get along with.¹⁶

13 In January 2021, at the age of 60, Plaintiff applied for benefits
14 under Titles 2 and 16, claiming disability beginning January 1, 2016,
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17 ¹⁴ AR 842.

18 ¹⁵ AR 842.

19 ¹⁶ AR 842.

1 with a date last insured of December 31, 2020.¹⁷ During his disability-
2 application intake in March 2021, the interviewer noted:

3 All dates and wages are real rough estimates. [Kenneth]
4 had a difficult time remembering any dates or wages. He
5 was also hard to keep focused and paranoia during his
6 intake. [Kenneth] attends mental health on the west side of
7 Washington. He could not tell me the city or facility of these
8 records. [Kenneth] is willing to attend any CE's necessary
9 for his claim. [Kenneth] has had numerous testings from all
10 providers. He cannot remember all tests performed, so
11 please request all testings from all providers.¹⁸

12 Also in March 2021, Plaintiff had a follow-up visit with Dr. Powell.¹⁹
13 Plaintiff once again was not compliant with treatment directions and
14 medications. He denied having seizures, although he was still having
15 them. Dr. Powell advised that he was discharging Plaintiff as a patient
16 for failure to maintain a therapeutic relationship, although he did refill
17 Plaintiff's prescriptions for a year.²⁰

18 ¹⁷ AR 722–46. As noted earlier, Plaintiff has modified the alleged onset
19 date to September 30, 2016. ECF No. 10 at 11.

20 ¹⁸ AR 799.

¹⁹ AR 840–41.

²⁰ AR 840.

1 Beginning in October 2021, Plaintiff's mother kept a log of the
2 seizures that she witnessed or knew about since October 25, 2021
3 through May 2023: 5 seizures in 2021 since October 25, 2021; 33
4 seizures in 2022; and 8 seizures in 2023 through May 23, 2023.²¹

5 In May 2022, a behavioral health treatment note states that
6 Plaintiff presented as polite but with symptoms consistent with
7 cognitive impairment and delusional beliefs along with tangential
8 speech and "word salad."²² Plaintiff scored 6/30 on the Rowland
9 Universal Dementia Assessment Scale, with a score of 22 or less being
10 considered as possible cognitive impairment.²³

11 On March 21, 2023, the date the ALJ found that disability began,
12 Plaintiff was admitted to the intensive care unit for acute liver failure
13 and kidney injury.²⁴ He presented as a poor historian with an altered
14 mental status, and was pleasantly confused but easily spaced out. He

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16 ²¹ AR 833–34.

17 ²² AR 908.

18 ²³ AR 907–08.

19 ²⁴ AR 456–59, 478, 995–96, 1013.

1 remained hospitalized for several weeks, during which time it was
2 noted, amongst other observations, that:

- 3 • He answered all the orientation questions appropriately,
4 although his conversation was somewhat tangential, and he
5 appeared to have difficulty understanding certain concepts.²⁵
- 6 • He was orientated and alert but confused and angry about
7 being put back on Keppra.²⁶
- 8 • He was agreeable but sometimes confused.²⁷
- 9 • He had limited insight into deficits and a limited ability to
10 problem-solve his living situation.²⁸

11 When he was admitted to an adult care center in late April 2023, he
12 largely passed the brief mental-status interview, except he did not
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16 ²⁵ AR 1091–94.

17 ²⁶ AR 1264, 1277.

18 ²⁷ AR 1302–03.

19 ²⁸ AR 1344–45.

1 recall after a delay one of the three words initially provided and he
2 believed that the Lord would heal him of his medical conditions.²⁹

3 Plaintiff began dialysis treatment, but at times he was resistant
4 to receiving dialysis, and he still refused to take his epilepsy
5 medications at times. Over the next several months, he occasionally
6 returned to the hospital due to seizures, otherwise continuing to reside
7 at an adult care facility. In July 2023, a guardian and conservator were
8 appointed for Plaintiff.³⁰

9 2. Administrative process

10 Two years prior thereto, in August 2021, Plaintiff was denied
11 disability by the Social Security Administration.³¹ He requested a
12 hearing before an ALJ, which was held by telephone in November 2023
13 with ALJ Deanna Sokolski.³²

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16 ²⁹ AR 1954–55, 2087, 2091.

17 ³⁰ AR 762–63.

18 ³¹ AR 581–622.

19 ³² AR 507–50.

1 At the hearing, Plaintiff testified that since September 2023 he
2 had resided at an adult home, which provided daily living assistance
3 with housing, food, and medication.³³ Plaintiff testified that he did not
4 have a definite plan of leaving the facility at a certain date and time
5 but “just know that sometime in the future, I’ll be going, doing a
6 different job that I’m supposed to be doing, for [Jesus Christ].”³⁴ During
7 Plaintiff’s testimony, he had a difficult time tracking and answering
8 questions about his prior work and his epileptic seizures at work.³⁵ Yet,
9 Plaintiff testified that he did not feel that he had any difficulty with
10 memory or his mental health.³⁶ In regard to a question about his
11 relationship with the Holy Spirit, Plaintiff responded:

12 What I’m saying is, is I know who I am, and I’m not
13 concerned as far as what people think of me. And what I’m
14 trying to say is that if you think I’m crazy, ask me.
15 Sometimes I think I’m crazy. But -- for being here, at this
16 place, or at any other place. But as far as what the Holy
17 Spirit basically decides to say, or bring up, he chooses to do

16 ³³ AR 514.

17 ³⁴ AR 523.

18 ³⁵ AR 524–33.

19 ³⁶ AR 536.

1 that. That's not up to me. That's up the Christ. So when he
2 decides to do certain things, he'll do it. And he's not going to
tell me when things are going to happen, and he's just going
to do it.³⁷

3 Months later, the ALJ issued a partially favorable decision,
4 finding Plaintiff disabled as of March 21, 2023.³⁸ As to the sequential
5 disability analysis, the ALJ found:

- 6 • Plaintiff met the insured status requirements through
7 December 31, 2020.
- 8 • Step one: Plaintiff had not engaged in substantial gainful
9 activity since January 1, 2016.
- 10 • Step two: Since January 1, 2016, Plaintiff had the following
11 medically determinable severe impairments: epilepsy, obesity,
12 and impaired memory with cognitive impairment (beginning
13 May 2022). Beginning on the established onset date of
14 disability, March 21, 2023, Plaintiff had the following
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17 ³⁷ AR 537.

18 ³⁸ AR 15–38. Per 20 C.F.R. §§ 404.1520(a)–(g), 416.920(a)–(g), a five-
19 step evaluation determines whether a claimant is disabled.

1 additional severe impairments: end stage renal disease on
2 dialysis, kidney disease, chronic liver disease, and psychosis.

3 Since March 21, 2023, Plaintiff's impairments met the criteria
4 of Listings 12.02 and 12.03.

- 5 • Step three: Prior to March 21, 2023, the date Plaintiff became
6 disabled, Plaintiff did not have an impairment or combination
7 of impairments that met or medically equaled the severity of
8 one of the listed impairments.

- 9 • RFC: Prior to March 21, 2023, Plaintiff had the RFC to
10 perform light work except:

11 never climb ladders, ropes, or scaffolds; occasionally
12 crouch, crawl and kneel; can perform a job that does not
13 require commercial driving; and avoid all exposure to
14 workplace hazards such as unprotected heights,
15 dangerous moving machinery and large bodies of water;
16 and can perform simple routine tasks in an environment
17 involving simple work related decisions and occasional
18 work place changes and occasional interaction with
19 supervisors and coworkers and no interaction with the
20 public as part of the job duties.

- Step four: prior to March 21, 2023, Plaintiff could perform past relevant work as a mail room clerk.³⁹

Plaintiff timely requested review of the ALJ’s decision by the Appeals Council and now this Court.⁴⁰

II. Standard of Review

The ALJ’s decision is reversed “only if it is not supported by substantial evidence or is based on legal error” and such error impacted the nondisability determination.⁴¹ Substantial evidence is “more than a mere scintilla but less than a preponderance; it is such

³⁹ AR 18–30.

⁴⁰ AR 1–6.

⁴¹ *Hill v. Astrue*, 698 F.3d 1153, 1158 (9th Cir. 2012). *See* 42 U.S.C. § 405(g); *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012)), *superseded on other grounds by* 20 C.F.R. § 416.920(a) (recognizing that the court may not reverse an ALJ decision due to a harmless error—one that “is inconsequential to the ultimate nondisability determination”).

1 relevant evidence as a reasonable mind might accept as adequate to
2 support a conclusion.”⁴²

3 **III. Analysis**

4 As to the period before March 21, 2023, Plaintiff argues the ALJ
5 mischaracterized the record and thereby erred in the step-three listings
6 analysis, when discounting Plaintiff’s symptoms before March 21, 2023,
7 and at step five. The Commissioner opposes Plaintiff’s motion and
8 maintains that the ALJ’s findings are supported by substantial
9 evidence. As is explained below, the ALJ consequentially erred at step
10 three.

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12 ⁴² *Hill*, 698 F.3d at 1159 (quoting *Sandgathe v. Chater*, 108 F.3d 978,
13 980 (9th Cir. 1997)). *See also Lingenfelter v. Astrue*, 504 F.3d 1028,
14 1035 (9th Cir. 2007) (The court “must consider the entire record as a
15 whole, weighing both the evidence that supports and the evidence that
16 detracts from the Commissioner’s conclusion,” not simply the evidence
17 cited by the ALJ or the parties.) (cleaned up); *Black v. Apfel*, 143 F.3d
18 383, 386 (8th Cir. 1998) (“An ALJ’s failure to cite specific evidence does
19 not indicate that such evidence was not considered[.]”).

A. Step Three (Listings): Plaintiff establishes consequential error.

The ALJ found that Plaintiff met or equaled Listings 12.02 and 12.03 on March 21, 2023, but not prior thereto. Plaintiff argues that the basis for the ALJ's listings findings after March 21, 2023, likewise, require the ALJ to have found that Plaintiff met or equaled Listings 12.02 and 12.03 since September 30, 2016. The Commissioner argues that substantial evidence supports the ALJ's step-three findings. As is explained below, substantial evidence does not support the ALJ's step-three decision to treat separately the periods before and after March 21, 2023, for purposes of Listing 12.03 and 12.03.

1. Standard

Listing 12.02 applies to neurocognitive disorders, and Listing 12.03 applies to schizophrenia spectrum and other psychotic disorders. To satisfy the paragraph B criteria of Listing 12.02 or 12.03, a claimant's mental impairments must result in at least one extreme or two marked limitations in the following broad areas of functioning: understanding, remembering, or applying information; interacting with others; concentrating, persisting, or maintaining pace; and adapting or

1 managing oneself.⁴³ A “marked” limitation means that functioning in
2 this area independently, appropriately, effectively, and on a sustained
3 basis is seriously limited.⁴⁴ An “extreme” limitation is the inability to
4 function independently, appropriately or effectively, on a sustained
5 basis.⁴⁵

6 2. The ALJ’s Step-Three Findings

7 After March 21, 2023, the ALJ found the criteria for Listings
8 12.02 and 12.03 were satisfied, offering the following findings:

9 The “paragraph A” criteria have been satisfied because the
10 claimant has delusions, disorganized thinking/speech, and
11 significantly impaired executive functioning. The
12 “paragraph B” criteria have been satisfied because the
13 claimant’s impairments have caused a moderate limitation
14 in understanding, remembering, or applying information, a
15 marked limitation in interacting with others, a moderate
16 limitation in concentrating, persisting, or maintaining pace,
17 and a marked limitation in adapting or managing oneself.⁴⁶

16 ⁴³ See 20 C.F.R. Part 404, Subpt. P, App.’x 1, § 12.02(B).

17 ⁴⁴ 20 C.F.R. Part 404, Subpt. P, App.’x 1, § 12.00F2(d).

18 ⁴⁵ 20 C.F.R. Part 404, Subpt. P, App.’x 1, § 12.00F2(e).

19 ⁴⁶ AR 29.

1 To support these findings, the ALJ highlighted that Plaintiff had
2 been hospitalized in March 2023, he was later found to not have
3 capacity, and that he “at times, refused hemodialysis and
4 medication.”⁴⁷ The ALJ cited to medical records reflecting that at times
5 Plaintiff was delusional, was a poor historian, had significantly
6 impaired executive functioning skills, indicated grandiose idealizations
7 in regard to Jesus Christ’s utilization of him to communicate to others,
8 and he was illogical with impaired reasoning abilities. In addition, the
9 ALJ cited other medical records showing Plaintiff’s low motivation to
10 participate in therapy, reduced insight into his cognitive deficits, slow
11 speech, and non-linear train of thoughts. The ALJ highlighted that
12 Plaintiff continued to have seizures through 2023 and had intermittent
13 medication compliance.

14 In comparison, prior to March 21, 2023, the ALJ found Plaintiff
15 did not meet or equal Listing 12.02’s paragraph B criteria because he
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19 ⁴⁷ AR 29.

1 had only moderate limitations in each of the four broad functioning
2 areas.⁴⁸ As to the four functioning areas, the ALJ found:

- 3 • understand, remember, or apply information: Plaintiff's
4 symptoms were consistent with a cognitive impairment as he
5 was unable to recall recent and past history although he was
6 able to complete adult daily living tasks.
- 7 • interact with others: Plaintiff was noted to be somewhat
8 difficult to get along with, his speech was tangential/word
9 salad, he demonstrated poor physical proximity boundaries
10 and delusional beliefs although he was overall polite, and on
11 another occasion, he was alert, orientated, and in no distress
12 with normal speech and demeanor.
- 13 • concentrate, persist, or maintain pace: that on one occasion,
14 Plaintiff's mood was anxious, his insight impaired due to poor
15 recollection, he was unable to stay on topic, and had difficulty

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17 ⁴⁸ AR 22–23. The ALJ did not address Listing 12.03 nor whether
18 Plaintiff met the paragraph A criteria for the pre-March 21, 2023
19 period.

finding appropriate and expressive words; on another occasion, he had intact attention and concentration and followed commands well.

- Adapt or manage oneself: Plaintiff did not take his epilepsy medication as prescribed and was discharged from Dr. Powell's care, he demonstrated religious delusions, and on one occasion he was alert, oriented, and in no acute distress with normal speech and normal demeanor.⁴⁹

3. Analysis

The cited records—and the records as a whole—do not serve as substantial evidence to support the ALJ's finding that Plaintiff did not satisfy paragraph B criteria prior to March 21, 2023, but did thereafter.

Although Plaintiff interacted with treatment providers much less before March 21, 2023, given that thereafter he was hospitalized and engaged in dialysis and stayed in adult family home care, the pre-March 21, 2023 record is consistent with the latter records in that Plaintiff suffered from delusions his ability to be a sound historian and

⁴⁹ AR 22–23.

1 impacting his insight and judgment, including his ability to make
2 sound decisions about taking his epilepsy medication.

3 As the above summary of medical records reveals, since
4 September 30, 2016, Plaintiff believed that God would heal his health
5 issues—this was not simply a devotedly held religious belief, but
6 instead, as the longitudinal records show, was a delusion. On several
7 occasions, Plaintiff stopped taking his medications due to these
8 delusions. That Plaintiff at times was noted as alert, orientated, and in
9 no acute distress and with normal speech and demeanor does not
10 conflict with the medical records showing that Plaintiff was markedly
11 limited in interacting with others because of his psychosis and
12 cognitive impairment. As summarized above, the pre-March 21, 2023
13 medical record shows that Plaintiff was unable to focus on his
14 treatment during his epilepsy appointments, instead spending most of
15 the time sharing his religious delusions, resulting in “convoluted visits”
16 being the “normal.”⁵⁰ He was argumentative, exhibited an edge, and
17 had difficulty getting along with providers. Based on the pre-March 21,

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19 ⁵⁰ See, e.g., AR 846, 865, 844.

1 2023 medical record, substantial evidence does not support the ALJ's
2 decision to find that Plaintiff was only moderately limited in his ability
3 to interact with others, as compared to markedly limited in his ability
4 to interact with others after March 21, 2023.

5 In addition, the record shows that his delusion that the Lord
6 would heal him markedly impacted his ability to adapt or manage
7 himself. This delusion caused him to be erratic in his medication
8 compliance, ultimately leading to his care provider ceasing the
9 therapeutic relationship. Further, with a cognitive score of 6/30 on a
10 memory exam, it was clear that Plaintiff's insight was impaired also
11 due to poor recollection, and he had difficulty staying on topic and
12 expressing himself. Again, that Plaintiff on a few occasions appeared as
13 orientated, alert, and not in distress and conversant does not serve as
14 substantial evidence to outweigh the longitudinal record that shows
15 Plaintiff was markedly impacted in his ability to adapt and manage
16 himself, including his own medical care. For instance, about 6 weeks
17 after the medical record relied by the ALJ for the normal mental-status
18 findings, and notwithstanding a reported ability to complete his adult
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1 living tasks,⁵¹ Plaintiff had a memory screening done on which he
2 scored 6/30, with a score of 22 or less indicating possible cognitive
3 impairment. He was observed with impaired insight due to poor
4 recollection, was unable to stay on topic, and had difficulty finding
5 appropriate and expressive words, although he was orientated to time
6 and season.⁵² A week later, Plaintiff did not recall attending the
7 memory-screening appointment and he presented as tangential in his
8 speech, with word salad, and delusional beliefs, although he was
9 polite.⁵³ Moreover, even after March 21, 2023, there were occasions
10 that Plaintiff was orientated, alert, not in distress, and conversant.⁵⁴

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12 ⁵¹ AR 22–23 (citing AR 903 (Ex. 7F/3), which is a medical record from
13 an emergency visit after a seizure, and which indicated that Plaintiff
14 reported that even though he was taking his seizure medication he had
15 had 4 seizures in the last month); AR 906–08.

16 ⁵² AR 906–08.

17 ⁵³ AR 2047–49.

18 ⁵⁴ *See, e.g.*, AR 1091 (March 27, 2023: answers orientation questions
19 appropriately but appears to have difficulty understanding certain
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1 Overall the record reflects that Plaintiff's mental health and cognitive
2 abilities waxed and waned, and when his symptoms waxed he was at
3 least markedly impaired in his abilities to interact with others and
4 adapt or manage himself.

5 Therefore, the ALJ's finding that Plaintiff was only moderately
6 impaired in these Paragraph B areas of functioning before March 21,
7 2023, is not supported by substantial evidence.⁵⁵

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10 concepts); AR 1266 (Apr. 7, 2023: not in acute distress, alert, and
11 orientated to person, place, and time); AR 1354 (April 16, 2023: talking
12 to provider appropriately and not in distress); AR (June 26, 2023: not
13 reporting any difficulties meeting his needs, is friendly and open to the
14 assessment completion, denies depression and anxiety, was alert and
15 orientated to person, place, and time, while also reporting that God is
16 responsible for him being on dialysis so that he can fulfill his assigned
17 task on earth and that he has the bible memorized in his mind).

18 ⁵⁵ Because of the ALJ's step-three error, the Court need not address
19 Plaintiff's remaining claims.

B. Remand: award benefits.

The parties disagree as to whether given this error a remand for payment of benefits or a remand for further proceedings is necessary. Although remand for further administrative proceedings is the usual course when a harmful error occurs in the administrative proceeding, this is a rare circumstance where an award of benefits is appropriate.⁵⁶

No additional medical records are needed for the at-issue period. The medical records clearly reflect that Plaintiff's abilities to interact with others and adapt or manage himself before March 21, 2023 were as markedly limited as they were after March 21, 2023. That Plaintiff suffered more severe health complications resulting from his kidney and liver disease after March 21, 2023, and therefore had more contact with medical providers, resulting in more treatment records, does not lessen that Plaintiff's mental-health impairments impacted his ability to interact with others, make decisions, and adapt or manage himself

⁵⁶ See *Treichler v. Comm'r of Social Sec. Admin.*, 775 F.3d 1090, 1099 (9th Cir. 2014) (quoting *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985)).

1 since at least September 30, 2016. Accordingly, the ALJ's step-three
2 post-March 21, 2023 listings findings apply equally to the period from
3 September 26, 2016 to March 20, 2023.

4 **IV. Conclusion**

5 Plaintiff establishes the ALJ erred and that an award of
6 benefits—rather than a remand for re-evaluation—is appropriate.

7 Accordingly, **IT IS HEREBY ORDERED:**

- 8 1. The ALJ's nondisability decision is **REVERSED**, and this
9 **matter is REMANDED to the Commissioner of Social**
10 **Security for immediate calculation and award of**
11 **benefits from September 26, 2016, to March 20, 2023.**
- 12 2. The Clerk's Office shall **TERM** the parties' briefs, **ECF**
13 **Nos. 6 and 7**, enter **JUDGMENT** in favor of **Plaintiff**, and
14 **CLOSE** the case.

15 **IT IS SO ORDERED.** The Clerk's Office is directed to file this
16 order and provide copies to all counsel.

17 **DATED** this 9th day of July 2025.

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EDWARD F. SHEA
Senior United States District Judge